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March 22, 2002

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**VIA HAND DELIVERY**

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
The Portals  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

**RECEIVED**

**MAR 22 2002**

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

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Re: **Ex Parte Notification**  
**CS Docket No. 98-120 / Carriage of the Transmissions of**  
**Digital Television Stations**

Dear Mr. Caton:

On Thursday, March 21, 2002, Lana Corbi, President and Chief Executive Officer of Crown Media United States, LLC, operator of the Hallmark Channel, and Seth A. Davidson, counsel for Hallmark Channel, met with Susan Eid, legal advisor to Chairman Michael K. Powell, W. Kenneth Ferree, Chief of the Cable Services Bureau, and Rick Chessen, chair of the Commission's Digital Television Task Force, to discuss the above-referenced proceeding.

Included with this letter is a written outline of Ms Corbi's presentation, together with a written letter to Chairman Powell that was delivered at the meeting. Pursuant to Section 1.1206(b) of the Commission's rules, an original and one copy of this letter and the attachments thereto are being submitted to the Secretary's office for inclusion in the record of the above-referenced proceeding and a copy is being provided to each of the participants in the meeting.

If there are any questions regarding this matter, please communicate directly with the undersigned.

Respectfully submitted,



Seth A. Davidson

1.1206(b) of the Commission's rules  
1.1206(b) of the Commission's rules

cc: Susan Eid  
W. Kenneth Ferree  
Rick Chessen



**Lana Corbi**

*President & Chief Executive Officer  
Crown Media United States, LLC*

March 21, 2002

The Honorable Michael K. Powell, Chairman  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W., Room 8-B201  
Washington, D.C. 20554

Dear Mr. Chairman:

I understand that, due to scheduling conflicts, we will be unable to meet during my visit to Washington in mid-March. I am, of course, disappointed, but I appreciate your staff taking the time to meet with me to discuss matters of interest to the **Hallmark Channel**, particularly the issue of digital must carry.

Hopefully, the opportunity will present itself for us to meet in the near future, either in Washington or in Los Angeles. In the meantime, I want to bring you up-to-date on the **Hallmark Channel's** accomplishments since its August 2001 launch and on the opportunities and challenges that we face in the year ahead.

I am pleased to report to you that in its first six months of operation, **Hallmark Channel** has increased its reach from under 30 million homes to over 44 million homes. As an independent, satellite-delivered programming network, we have achieved this growth without the benefit of any mandatory carriage rights or "retransmission consent" leverage. Rather, our success is attributable to the integrity of our brand name and to our ability to deliver a consistent slate of high-quality, family-friendly entertainment and informational programming.

There is no question that the viewing public has a hunger for the kind of programming that **Hallmark Channel** offers. As reported by Initiative Media in a study presented in January, one of the ways that American families have reacted to the events of September 11 has been to search for a sense of connectedness. Coming together with their families in their homes to watch television is one of the most common ways to achieve this. **Hallmark Channel** is providing families with compelling programming that provides families with this forum.

Evidence of the **Hallmark Channel's** appeal includes the fact that, during its first quarter of operations **Hallmark Channel** led all ad-supported cable networks and the four major television networks in growth in prime time for average weekly "time spent viewing" as calculated by Nielsen Media Research. And separate studies conducted last November by Opinion Research Corporation International and Beta Research Corporation found that **Hallmark Channel** ranks second (behind only the Discovery Channel) in advertising effectiveness and is projected to be the top-ranked mid-size cable network in terms of subscriber growth in 2002.

**CrownMedia**  
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While, as I mentioned, **Hallmark Channel** currently is in more than 44 million homes, that means that cable systems serving more than 36 million households still don't carry our service. In a "perfect" world, there would be little question about our ability to achieve carriage on these systems in the near future. However, the reality is that many cable operators tell us that, as much as they would like to add **Hallmark Channel** to their line-ups, they are unable to do so because of channel capacity limitations. You can imagine, therefore, how concerned we are over reports that the Commission is considering giving expanded must carry rights to broadcasters.

We are ready, willing and able to compete for carriage on the merits of **Hallmark Channel's** programming. Some of the highlights of our first six months of operations include the 25<sup>th</sup> Anniversary rebroadcast of **Alex Haley's "Roots"** with additional exclusive interviews with the original cast; the United States television premiere of the critically acclaimed theatrical film, **"Here's to Life"** starring an all-star cast that includes James Whitmore, Ossie Davis, Kim Hunter, and Eric McCormack; the world premiere original movie **"Sherlock Holmes in 'The Royal Scandal'"** starring Matt Frewer; the United States television premiere of **"Walking Across Egypt"** starring Elyn Burstyn, Mark Hamill, Gwen Verdon, and Judge Reinhold; and the debut of the original miniseries **"The Infinite Worlds of H.G. Wells"**, which was honored with the Odyssey Award for excellence for a television miniseries at the Burbank International Children's Film Festival in 2001.

Moreover, **Hallmark Channel's** commitment to serving the viewing public does not end with the presentation of high quality, diverse entertainment programs. We are particularly proud of our efforts to increase parental awareness of the V-Chip technology and television ratings systems. As you know, part of our effort in this regard has included the donation (jointly with the Jim Henson Company) of a license to the Commission allowing it to use the image of Kermit the Frog as the official "spokesfrog" of the agency's national V-Chip awareness campaign.

As pleased as we are about **Hallmark Channel's** successes in its first six months of operation, we are even more excited about what lies ahead. We already have announced several upcoming productions of note, including a four-hour original miniseries, **"Mark Twain's Roughing It,"** starring James Garner and an all-star cast and an original, one-hour, non-scripted reality series, **"Adoption,"** which portrays the real-life experiences of people involved in the adoption process. This latter production will serve as the focus of this year's annual national outreach initiative – a joint effort with local cable operators and adoption organizations to inform the public about the adoption process and to highlight relevant adoption stories in local communities.

In short, we will match **Hallmark Channel's** programming and public service record against that of any broadcaster. We ask only that we be given a fair chance to compete for carriage without having to overcome new government rules favoring the broadcast industry. Singling out the broadcasters to receive preferential treatment not only will make it more difficult for our channel to reach new viewers, it might even cause us to be "bumped" off of some systems to make room for these duplicative broadcast services.

In closing, I want to restate **Hallmark Channel's** commitment to keeping you informed about our programming and public service efforts and to extend an invitation to you and your staff to call upon us if we can be of assistance to you. This coming year – our first full year of operations – offers many challenges and opportunities. Issues such as "digital must carry" are particularly significant for us and we look forward to meeting with you and discussing this and other matters of mutual interest.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lana Corbi".

Lana Corbi  
President and CEO

**GIVING BROADCASTERS' EXPANDED "DIGITAL MUST CARRY" RIGHTS  
WILL HARM CABLE PROGRAMMERS WITHOUT PROVIDING ANY  
COUNTERVAILING BENEFITS TO THE PUBLIC  
OR TO THE DIGITAL TRANSITION**

- **Giving Broadcasters Expanded Digital Must Carry Rights Will Tie Up Limited Cable System Capacity**
  - Proposals to give broadcasters "multicast" must carry rights that go beyond ensuring that the public continues to have access to existing levels of broadcast programming would unfairly limit the channel capacity available for competing services.
  - Unlike broadcasters, the Hallmark Channel and other cable networks have no over-the-air access to viewers and no guaranteed place on cable systems. We compete for cable carriage not only with more than 280 national and regional networks, but also with a host of other new services, such as high speed Internet, interactive video, and cable telephony.
  - For example, in addition to its analog programming network, Hallmark Channel has developed an array of digital services, including video-on-demand, an interactive "arts and crafts" service for and their parents, and video greeting cards. If we were to convert our analog service to a digital service, we would have no automatic right to the capacity freed up by that decision.
  - We hear daily from operators who would like to add our existing service, but who don't have any room for us. Any regulatory changes that cause cable operators to set-aside capacity for particular uses will further impede our ability to reach viewers.
- **Multicast Must Carry Unfairly Discriminates Against Cable Programmers Who Simply Want To Compete for Carriage on the Merits of the Services They Offer**
  - Cable customers don't buy or watch "bandwidth" or "bits;" they buy and watch channels of programming. There is no valid reason to transform must carry into a government guarantee for multiple new businesses if, instead of offering a single HDTV channel in place of a single channel of analog programming, broadcasters use their free extra spectrum to present multiple channels of standard definition programming.
  - Hallmark Channel has invested millions of dollars launching a high-quality, family-friendly network designed to fulfill the needs of millions of American television viewers who are seeking meaningful programming that offers a way for entire families to connect.

- Cable operators and their customers have responded enthusiastically to our new network, making us one of the fastest growing services, both in terms of subscribership and ratings. In our first six months of operations we have grown from under 30 million subscribers to more than 44 million.
- While services like Hallmark Channel have to show cable operators what we have to offer before they'll consider adding us to their line-ups, most broadcasters still haven't indicated how they would use the digital spectrum for which they are demanding expanded must carry rights.
- In many instances, the broadcasters will simply use their digital spectrum to offer time-shifted versions of the same programming, giving the public nothing new.
- Even if broadcasters use their digital capacity to launch "new" services, those services should not be placed at the "head of the line for carriage; the marketplace should decide competition for carriage among new services, not government fiat.
- **Expanded Must Carry Rights Will Not Speed the Digital Transition**
  - The digital transition will be driven by the creation of compelling programming, not by mandated carriage of duplicative channels under either a "dual carriage" requirement or an expansive interpretation of the "primary video" carriage obligation.
  - The broadcast industry will have a much greater incentive to produce diverse, high-quality programming if they have to compete for carriage, to the benefit of the viewing public.
  - If broadcasters are given "squatters rights" to more capacity than they can program themselves, they will try to sell off that capacity to nonbroadcast programmers. This will give the broadcasters an undeserved windfall and will not promote the digital transition any more than allowing the cable programmers to obtain access to the system directly through negotiations with the cable operator.
  - Lack of expanded must carry rights has not slowed the digital transition. The real culprit is lack of compelling content and technical problems such as tower siting and equipment production delays.